

APPEAL

**U.S. District Court [LIVE AREA]
Middle District of Georgia (Athens)
CIVIL DOCKET FOR CASE #: 3:18-cv-00062-CAR**

WHYTE v. NATIONAL BOARD OF MEDICAL
EXAMINERS
Assigned to: US DISTRICT JUDGE C ASHLEY ROYAL
Cause: 42:12182 Americans with Disabilities Act

Date Filed: 05/16/2018
Jury Demand: None
Nature of Suit: 446 Civil Rights:
Americans with Disabilities – Other
Jurisdiction: Federal Question

Plaintiff

SARA WHYTE

represented by **LAURENE CUVILLIER**
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V.

Defendant

**NATIONAL BOARD OF MEDICAL
EXAMINERS**

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Email All Attorneys
 Email All Attorneys and Additional Recipients

Date Filed	#	Page	Docket Text
05/16/2018	<u>1</u>		<i>COMPLAINT</i> against NATIONAL BOARD OF MEDICAL EXAMINERS Fee paid: Receipt # 113G-2878067, \$400 filed by SARA WHYTE (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons, # <u>3</u> Statement Under Penalty of Perjury – Original, # <u>4</u> Verification)(GOLDBERG, RALPH) (Entered: 05/16/2018)
05/16/2018	<u>2</u>		MOTION for Temporary Restraining Order by SARA WHYTE filed by RALPH S GOLDBERG. (Attachments: # <u>1</u> Brief In Support, # <u>2</u> Law Review Article, # <u>3</u> Settlement Agreement, # <u>4</u> Letter October 6, 2016, # <u>5</u> Letter April 30, 2018, # <u>6</u> Certificate of Counsel)(GOLDBERG, RALPH) (Entered: 05/16/2018)
05/16/2018	<u>3</u>		MOTION to Seal Document(s) <u>2</u> MOTION for Temporary Restraining Order by SARA WHYTE filed by RALPH S GOLDBERG.(GOLDBERG, RALPH) (Entered: 05/16/2018)
05/16/2018	<u>4</u>		Summons Issued as to NATIONAL BOARD OF MEDICAL EXAMINERS. (ggs) (Entered: 05/16/2018)
05/16/2018	<u>5</u>		Consent Form (28 USC 636(c)(1)) sent to SARA WHYTE (ggs) (Entered: 05/16/2018)
05/17/2018	<u>6</u>		AFFIDAVIT re <u>2</u> MOTION for Temporary Restraining Order by SARA WHYTE (Attachments: # <u>1</u> Certificate of Service)(GOLDBERG, RALPH) (Entered: 05/17/2018)
05/18/2018	<u>7</u>		NOTICE of Attorney Appearance by GORDON GRANT GREENWOOD on behalf of NATIONAL BOARD OF MEDICAL EXAMINERS Attorney GORDON GRANT GREENWOOD added to party NATIONAL BOARD OF MEDICAL EXAMINERS(pty:dft) (GREENWOOD, GORDON) (Entered: 05/18/2018)
05/18/2018			Notice of Deficiency (related document(s): <u>7</u> Notice of Attorney Appearance filed by NATIONAL BOARD OF MEDICAL EXAMINERS). Only one attorney per notice of attorney is allowed. A separate notice of appearance must be filed by LEE M. GILLIS, JR. (ggs) (Entered: 05/18/2018)
05/18/2018	<u>8</u>		NOTICE of Attorney Appearance by LEE M GILLIS, JR on behalf of NATIONAL BOARD OF MEDICAL EXAMINERS Attorney LEE M GILLIS, JR added to party NATIONAL BOARD OF MEDICAL EXAMINERS(pty:dft) (GILLIS, LEE) (Entered: 05/18/2018)
05/18/2018			

			NOTICE OF SETTING HEARING ON MOTION re <u>2</u> MOTION for Temporary Restraining Order: Motion Hearing set for 5/21/2018 at 3:30 PM in Macon before US DISTRICT JUDGE C ASHLEY ROYAL. (lap) (Entered: 05/18/2018)
05/21/2018	<u>9</u>		Corporate Disclosure Statement by NATIONAL BOARD OF MEDICAL EXAMINERS (GILLIS, LEE) (Entered: 05/21/2018)
05/21/2018	<u>10</u>		RESPONSE filed by NATIONAL BOARD OF MEDICAL EXAMINERS re <u>2</u> MOTION for Temporary Restraining Order (Attachments: # <u>1</u> Exhibit Declaration of Catherine Farmer, PSY.D.)(GILLIS, LEE) (Entered: 05/21/2018)
05/21/2018	<u>11</u>		REPLY to Response filed by SARA WHYTE re <u>2</u> MOTION for Temporary Restraining Order (GOLDBERG, RALPH) (Entered: 05/21/2018)
05/21/2018			Notice of Deficiency (related document(s): <u>2</u> Corporate Disclosure Statement filed by NATIONAL BOARD OF MEDICAL EXAMINERS); Non-corporate entities are not required to file a Corporate Disclosure Statement. (ggs) (Entered: 05/21/2018)
05/21/2018			NOTICE TO COUNSEL LAURENE CUVILLIER – Counsel is notified that they do not show in the court records that they meet the required attorney admissions policies of this court. If within 14 days of this notice all requirements, including the payment of Pro Hac Vice or admissions fees, have not been met, a show cause hearing will be scheduled. (ggs) (Entered: 05/21/2018)
05/24/2018	<u>12</u>	5	Minute Order granting <u>2</u> Motion for TRO: Proceedings held before US DISTRICT JUDGE C ASHLEY ROYAL: Motion Hearing held on 5/21/2018 re <u>2</u> MOTION for Temporary Restraining Order filed by SARA WHYTE (Court Reporter Tammy DiRocco) (lap) (Entered: 05/24/2018)
05/25/2018	<u>13</u>		TRANSCRIPT of TRO Proceedings held on 5–21–18, before Judge Royal. Court Reporter Tammy W. DiRocco. Volume Number: 1 of 1. The transcript may be inspected at the court or purchased through the court reporter for a period of 90 days. After 90 days, the transcript may be obtained via PACER. REDACTION OF TRANSCRIPTS: Complete redaction policy available on the courts website. (Tammy W. DiRocco) (Entered: 05/25/2018)
05/30/2018	<u>14</u>		RESPONSE filed by NATIONAL BOARD OF MEDICAL EXAMINERS re <u>3</u> MOTION to Seal Document(s) <u>2</u> MOTION for Temporary Restraining Order (GILLIS, LEE) (Entered: 05/30/2018)
05/31/2018	<u>15</u>		MOTION for Attorney Fees by SARA WHYTE filed by RALPH S GOLDBERG. (Attachments: # <u>1</u> Brief, # <u>2</u> Affidavit of Laurene Cuvillier, # <u>3</u> Affidavit of Ralph Goldberg, # <u>4</u> Declaration of Janet Hill)(GOLDBERG, RALPH) (Entered: 05/31/2018)
06/04/2018	<u>16</u>		Order granting Petition for Admission Pro Hac Vice (Petition Attached); Attorney Admission Fee Met by ROBERT A BURGOYNE (nop) (Entered: 06/04/2018)
06/06/2018	<u>17</u>		ORDER granting <u>3</u> Motion to Seal Document. Ordered by US DISTRICT JUDGE C ASHLEY ROYAL on 6/6/2018 (lap) (Entered: 06/06/2018)
06/07/2018	<u>18</u>		

			SEALED DOCUMENT Psychological Evaluation by The Behavioral Institute of Atlanta (Attachments: # <u>1</u> Testing of January 13, 1999, # <u>2</u> UGA Evaluation from March 2015)(ggs) (Entered: 06/07/2018)
06/15/2018	<u>19</u>		Georgia Attorney Admission Fee Met by LAURENE CUVILLIER (nop) (Entered: 06/15/2018)
06/15/2018	<u>20</u>	7	NOTICE OF APPEAL as to <u>12</u> Order on Motion for TRO, Motion Hearing by NATIONAL BOARD OF MEDICAL EXAMINERS. Filing fee \$ 505, Receipt No.: 113G-2900764. (GREENWOOD, GORDON) (Entered: 06/15/2018)
06/15/2018			Appeal Instructions re <u>20</u> Notice of Appeal. The Transcript Information Form and instructions are available on the District Court website under Forms & Guides. **PLEASE NOTE** Separate forms must be filed for each court reporter. Transcript Order Form due by 7/2/2018 (ggs) (Entered: 06/15/2018)

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION
AT MACON, GEORGIA**



**MINUTE SHEET
OF COURT PROCEEDINGS ()**

Date: 05/21/2018	Type of Hearing:	TRO Hearing
Judge: C. Ashley Royal	Court Reporter:	Tammy DiRocco
Courtroom Deputy: Lee Anne Purvis	Law Clerk:	Anna Stangle

Case Number: 3:18-cv-62(CAR)

Sara Whyte	Counsel:	Laurene Cuvillier Ralph Goldberg
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vs.

Nat'l. Board of Medical Examiners	Counsel:	Will Horkin Lee Gillis Robert Burgoyne, by phone
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Disclaimer: Contents of this Minute Sheet are for administrative purposes ONLY and are NOT meant as a substitution for the official court record. Attorneys should contact the court reporter and order a transcript if there are any questions as to the contents herein.

Court time for JS10/MJSTAR:1/31

3:31 Called to order. Preliminary remarks by the Court. The Court notes review of this case and makes its observations.

3:33 Argument by Ralph Goldberg.

3:35 Response by Lee Gillis.

3:36 The Court seeks clarification and hears from Goldberg.

3:37 Response by Lee Gillis.

3:37 The Court makes further observations.

3:38 Goldberg responds.

3:39 The Court continues with its observations.

3:40 Plaintiff addresses the Court.

3:41 The Court addresses the parties re: testimony by Plaintiff Sara Whyte and courtroom procedure.

3:44 Examination of Plaintiff Whyte by the Court.

3:50 The Court makes inquiry and hears from Goldberg.

3:50 Continuation of examination of Plaintiff Whyte by the Court.

4:04 Robert Burgoyne responds to the Court's inquiry.

4:05 The Court reviews test results and makes its observations.

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4:06 Ralph Goldberg responds.
4:07 Laurene Cuvillier responds.
4:08 The Court makes inquiry and hears from Goldberg.
4:15 Examination of Plaintiff Whyte by Lee Gillis.
4:17 The Court questions Plaintiff.
4:17 Argument by Lee Gillis.
4:19 Plaintiff Whyte responds.
4:19 Examination of Plaintiff Whyte by the Court.
4:23 Examination of Plaintiff Whyte by Lee Gillis.
4:23 Argument by Lee Gillis. The Court questions the plaintiff.
4:25 Argument by Lee Gillis.
4:27 Response by Plaintiff. Argument by Lee Gillis.
4:28 The Court makes inquiry and hears from Plaintiff.
4:33 The Court sets forth the legal issue and hears from Goldberg.
4:36 The Court sets forth excerpts from the 2016 report.
4:40 Robert Burgoyne responds.
4:41 The Court continues review of the 2016 report and hears from Goldberg.
4:47 Recess.
5:07 Reconvene.
5:08 The Court inquires into the TRO elements and hears from Lee Gillis.
5:12 Argument by Ralph Goldberg.
5:14 The Court makes further inquiry re: elements and hears from Ralph Goldberg.
5:17 Argument by Lee Gillis.
5:18 Argument by Ralph Goldberg.
5:22 Argument by Lee Gillis.
5:23 The Court makes its findings. Plaintiff's Motion for TRO is GRANTED.
5:27 Adjourned.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA

SARA WHYTE,

Plaintiff,

v.

NATIONAL BOARD OF MEDICAL
EXAMINERS,

Defendant.

Case No. 3:18-cv-00062-CAR

NOTICE OF APPEAL

Notice is hereby given that the National Board of Medical Examiners ("NBME"), Defendant in the above-named case, hereby appeals to the United States Court of Appeals for the Eleventh Circuit from the Court's May 21, 2018 order and ruling, entered from the Bench and reflected in a transcript from the hearing (ECF No. 13), which granted Plaintiff's Motion for Temporary Restraining Order (ECF No. 2); and from the corresponding Minute Order of May 21, 2018 (ECF No. 12), entered May 24, 2018.

Dated: June 15th, 2018

Respectfully submitted,

/s/ LEE M. GILLIS, JR.

Lee M. Gillis, Jr.

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Counsel for Defendant NBME

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Notice of Appeal, were filed via CM/ECF on June 15, 2018, which will send a Notice of Electronic Filing to counsel of record for plaintiff, which constitutes service.

/s/ LEE M. GILLIS, JR.

LEE M. GILLIS, JR.

Georgia State Bar No. 217515

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